

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION

ORDER NO. 98-703

CLEANUP AND ABATEMENT ORDER
FOR
CAROL NUNES AND SUNRISE FARMS, INC.
dba OAKTREE RANCH
CALAVERAS COUNTY

This Order is issued to Carol Nunes and Sunrise Farms, Inc., dba Oaktree Ranch (hereafter collectively referred to as Discharger) based on provisions of California Water Code Section 13304 which authorizes imposition of a Cleanup and Abatement Order:

The Executive Officer finds, with respect to the Discharger's acts, or failure to act, the following:

1. Oaktree Ranch is in the south half of Section 28, T4N, R10E, MDB&M, at 4469 Carol Lane in Calaveras County. The facility is a poultry operation for the production of eggs. The facility and land are owned by Carol Nunes. Oaktree Ranch is operated by Sunrise Farms, Inc. The Oaktree Ranch poultry farm and waste facility are on Assessors' Parcel No. 38-025-150 (40.54 acres). The application area is on Assessors' Parcel No. 48-025-149 (81.94 acres).
2. The poultry ranch currently keeps approximately 100,000 birds at the facility. The Discharger generates manure solids, washwater, and stormwater runoff containing manure from the confined animal facility. Manured wastewater and manure solids are applied to the flatter portion (approximately 40 acres) of parcel 48-025-149 and incorporated into the soil within 72 hours of application. The parcel is non-irrigated cropland.
3. Waste discharge requirements were first issued to Ralph Nunes and Carol Nunes dba Nunes Farms on 22 June 1990 with Waste Discharge Requirements Order No. 90-178 in response to discharges of manure water from the poultry farm to drainage courses tributary to the Calaveras River, and for over application of the manure water to rangeland.
4. Manure was slurried and run through a digester, then into a wastewater retention lagoon. The manured wastewater was then sprinkled onto rangeland. The rates of application were excessive. Vegetation and trees were killed. Runoff occurred which impacted surface water and created nuisance conditions for neighbors. The former operator attempted to reduce waste management problems by switching to a manure drying process; however, this process also caused nuisance conditions and impacted surface water. The drying process was discontinued in December 1990. The remaining manure was either sold or given away to other property owners in the area to be used to fertilize rangeland.
5. The Regional Board issued revised Waste Discharge Requirements Order No. 91-140 on 28 June 1991 in response to continuing concerns of the Calaveras County Planning Commission and several

neighbors related to nuisance conditions and possible water quality impacts resulting from waste management at the facility.

6. The revised requirements contained additional restrictions on waste management. Additional monitoring and annual reporting, including the installation of at least one monitoring well were also required. Specifically, the revised requirements required the waste to be stored only in the poultry houses and in a liquid form in the mixing tank-digester-waste lagoon system. Manure drying operations were not allowed at the facility, and waste was not to be applied to cropland or rangeland using sprinkler systems. Additionally, a technical report was to be submitted addressing the methods used to control flies and odors at the facility. A letter dated 26 September 1991 was submitted by Ralph Nunes describing new manure management to comply with the County conditional use permit and to curtail earlier fly and nuisance problems.
7. A single monitoring well was installed downgradient of the retention lagoon in October 1991. Two subsequent samplings of the well found that the facility was not impacting groundwater. Water in the monitoring well was encountered approximately 237 feet below surface.
8. The manure management plan submitted by Ralph Nunes on 4 January 1991 (Attachment B of Order No. 91-140), significantly reduced the potential for nuisance conditions and adverse impacts to surface water.
9. Sunrise Farms began operating the facility in October 1993. The waste management reverted back to manure drying, which caused nuisance conditions and runoff from the drying area. Numerous complaints were lodged with County Health and Regional Board Staff regarding fly breeding in the manure beds. A Notice of Violation was issued to Sunrise Farms on 28 July 1994, along with a request for the submittal of a Report of Waste Discharge.
10. A waste management plan was proposed 15 August 1994; however, the plan did not adequately address the problems at the site.
11. Sunrise Farms, Inc. submitted a Report of Waste Discharge on 19 August 1994 for Carol Nunes and Sunrise Farms, Inc. *dba* Oaktree Ranch, formerly Nunes Farms.
12. A Notice of Violation was issued on 17 November 1994 for allowing stormwater runoff containing manure to leave the property controlled by the Discharger.
13. During the summer of 1995, Regional Board Staff received numerous complaints. These complaints were regarding excessive flies and strong, noxious odors emanating from the facility. Inspections by Board Staff in July 1995 indicated excessive and improper application of liquid poultry waste to the land application area, discharge of liquid waste to surface water drainages, and liquid waste being discharged to rangeland east of the facility, without the property owner's knowledge. This waste had been spread over approximately a mile of the rangeland.
14. In January 1996, both the County Health Department and Regional Board Staff again received numerous odor complaints. These complaints reiterated earlier excessive fly problems near the

facility prior to the onset of cold weather.

15. Updated Waste Discharge Requirements Order No. 96-210 were issued on 9 August 1996 for Carol Nunes and Sunrise Farms, Inc., *dba* Oaktree Ranch. Order No. 96-210 prohibits discharge of water containing waste from the property under the control of the Discharger, except for runoff which results from a storm exceeding a 25-year, 24-hour frequency. Additionally, the discharge shall not cause a pollution of ground or surface waters or create a nuisance from the storage, treatment, or disposal of the waste. This current Order specifies how the poultry waste shall be stored and requires monitoring and annual reporting to the Regional Board.
16. On 21 August 1997, County Health received a telephone complaint regarding chicken waste running onto adjacent property. An inspection of the facility on the following day by the County and Regional Board Staff confirmed that wastewater had crossed Carol Lane onto adjacent property via a culvert and had run approximately 200 feet in a drainage area. Pumping of the wastewater into the air in the pond for agitation was observed, creating strong, objectionable odors. The wetted area where wastewater had discharged off-property had been disced to hasten drying and suppress odors. However, the equipment used to incorporate the wastewater into the soil of the application area had broken down and waste was applied to the area without immediate incorporation, causing strong odors and attraction for flies.
17. A 27 August 1997 inspection by Board Staff observed that sludge from the bottom of the waste pond was being dredged and applied to the same area that liquid poultry waste was applied on 21 August, at what appeared to be a heavy rate.
18. On 18 November 1997 Regional Board Staff conducted an inspection in response to recent complaints alleging odors and flies coming from the application area that had received the poultry waste application. The inspection revealed no fly breeding; however, there was some odor coming from the area. Staff observed that manure solids were approximately four inches deep in places and at the date of inspection no plants appeared to be germinating or growing in the area where the waste had been applied, indicating the application had been excessive. The manure solids were white in appearance. Staff also observed a berm constructed in a "V" shape across the application area that appeared to drain runoff into the culverts under Carol Lane.
19. A Notice of Violation was issued to Carol Nunes and Sunrise Farms on 11 December 1997 for creating nuisance conditions by allowing waste to discharge off-property, and for applying poultry waste at rates that exceed the requirements of the rangeland, in violation of Order No. 96-210. The Notice of Violation required a submittal by 22 December 1997 of any analysis that was performed on the poultry waste spread on the on-site application area in August 1997. The submittal was for the determination of nutrient content of the poultry waste, documents showing the quantity of waste spread, and calculations used to determine the rates of application of wastewater and sludge.
20. No such analytical documentation has been received by this office.
21. On 4 February 1998 an inspection was conducted in response to complaints alleging runoff of poultry waste from rangeland application area across Carol Lane. During the inspection, Staff

observed stormwater runoff from the application area, across neighboring property, into Indian Creek. Runoff was observed ponding south of Carol Lane, on adjacent property, not in control of the Discharger. The electrical conductivity reading of the runoff ranged from 2300 to 2400 Φ mhos/cm, indicating that poultry waste had been applied at an excessive rate and had not been incorporated adequately.

22. Discharge Prohibition A.1. of Waste Discharge Requirements Order No. 96-210 states:

“Except for runoff which results from a storm exceeding a 25-year, 24-hour frequency, the discharge of water containing waste from property under control of the Discharger is prohibited.”

23. Waste Discharge Specification B.1 states:

“The discharge shall not cause a pollution of ground or surface waters.”

24. Water containing manure has been discharged from the poultry farm into drainage courses which flow to Indian Creek, a tributary to the Calaveras River. The beneficial uses of the Calaveras River are municipal, industrial, and agricultural supply; recreation; fresh water replenishment; and fish and wildlife habitat. The beneficial uses of the underlying groundwater is domestic and agricultural supply.

25. Discharge Specification B.2. states:

“Neither the storage, treatment, nor disposal of the waste shall create a nuisance as defined in the California Water Code.”

26. Section 13304(a) of the California Water Code provides that “Any person who has discharged or discharges waste into waters of this state in violation of any waste discharge requirements or other order or prohibition issued by a regional board or the state board, or who has caused or permitted, causes or permits, or threatens to cause or permit any waste to be discharged or deposited where it is, or probably will be, discharged into the waters of the state and creates, or threatens to create, a condition of pollution or nuisance, shall upon order of the regional board clean up such waste or abate the effects thereof or, in the case of threatened pollution or nuisance, take other necessary remedial action. Upon failure of any person to comply with such cleanup or abatement order, the Attorney General, at the request of the board, shall petition the superior court for that county for the issuance of an injunction requiring such person to comply therewith. In any such suit, the court shall have jurisdiction to grant a prohibitory or mandatory injunction, either preliminary or permanent, as the fact may warrant.”

27. Section 13304(c)(1) of the California Water Code provides that:

“If the waste is cleaned up or the effects of the waste are abated, or, in the case of threatened pollution or nuisance, other necessary remedial action is taken by any governmental agency, the person or persons who discharged the waste, discharges the waste, or threatened to cause or permit the discharge of waste within the meaning of subdivision (a), are liable to that governmental agency to the extent of the reasonable costs actually incurred in cleaning up the waste, abating the effects of the waste, supervising the cleanup or abatement activities, or taking other remedial action. The amount of the costs is recoverable in a civil action by, and paid to, the governmental agency and state board to the extent of the latter’s contribution to the cleanup costs from the State Water Pollution and Abatement Account or other available funds.”

28. Section 13267(b) of the California Water Code provides that:

“In conducting an investigation specified in subdivision (a), the regional board may require that any person who has discharged, discharges, or is suspected of discharging, or who proposes to discharge waste within its region, or any citizen or domiciliary, or political agency or entity of this state who has discharged, discharges, or is suspected of discharging, or who proposes to discharge waste outside of its region that could affect the quality of waters of the state within its region shall furnish, under penalty of perjury, technical or monitoring program reports which the regional board requires. The burden, including costs, of these reports shall bear a reasonable relationship to the need for the report and the benefits to be obtained from the reports.”

29. The issuance of this Order is an enforcement action taken by a regulatory agency and is exempt from the provisions of the California Environmental Quality Act, pursuant to Section 15321(a)(2), Title 14, California Code of Regulations.

30. Any person affected by this action of the Board may petition the State Water Resources Control Board to review the action. The petition must be received by the State Board within 30 days of the date of this Order. Copies of the law and regulations applicable to filing petitions will be provided upon request.

IT IS HEREBY ORDERED THAT, pursuant to Sections 13267 and 13304 of the California Water Code, Carol Nunes, Sunrise Farms, Inc., and Oaktree Ranch shall:

1. Take all necessary action to immediately abate the discharge of manured wastewater into surface waters and surface water drainages, including roadside ditches, except during a 25-year, 24-hour storm event.
2. Abate forthwith any and all discharges of waste sludge or water containing waste to land not allowed by Waste Discharge Requirements Order No. 96-210.

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3. Abate forthwith discharges of manure and wastewater to cropland at rates that are not reasonable for crops, soils and local circumstances.
4. By **1 May 1998** submit the Annual Monitoring Report as required by Monitoring and Reporting Program No. 96-210.
5. By **1 June 1998** submit a workplan and time schedule for a plan and permanent modifications to parcels 48-025-149 and 48-025-150 such that (a) manured stormwater will be prevented from leaving the property in control of the Discharger, consistent with Waste Discharge requirements Order No. 96-210 and waste management plan attached to Order No. 96-210, (b) manure and wastewater applied to rangeland cannot enter surface waters, including roadside ditches, (c) application rates for manure and wastewater to rangeland will be reasonable for the crop, soils,